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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,269	06/20/2003	Hamid G. Kia	H-203315	4520

7590 12/30/2005

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EXAMINER	
DIXON, MERRICK L	

ART UNIT	PAPER NUMBER
1774	

DATE MAILED: 12/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/601,269	KIA ET AL.	
	Examiner	Art Unit	
	Merrick Dixon	1774	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 October 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-27;30-45* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *1-10 and 20-27* is/are allowed.

6)☒ Claim(s) *11-19;,30-45* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

MERRICK DIXON
PRIMARY EXAMINER

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

1. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

2. Claims 11,15,20,28-32, and 43 provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-7,10,35 and 37 of copending Application No. 10/601250. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claim 35 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 7 and 1 of

copending Application No. 10/601250. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to cure the articles and remove same from a oven in the '250 reference..

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

5. Claims 11,42,43 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 10-12 and 18 of copending Application No. 10/623922. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

6. Claim 40 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 13 of copending Application No. 10/623922. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to also cure the resin as in the '922 application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 28-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Okayama(JP2001-150559).

The cited reference teaches the claimed process including applying a gel coat onto a mold, applying a barrier thereover, and applying a laminate over the barrier layer – see Abstract. It is noted those limitations relating to the process are germane to the instant question for patentability, not those claimed limitations directed to structure limitations. See Ex parte Pfeiffer, 1962 C.D. 408(1961). Accordingly, applicants' limitations directed to weights of the recited material and fillers, are of no patentable consequences to the instant question for patentability which must be manipulatively distinct. Thus and relating to claims 31-36, the resulting types/products , amounts and dimensions of material used during the claimed process are of no patentable consequences which must be manipulatively distinct for reasons discussed above.

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

10. Claims 35-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okayama(2001-150559) in view of GB Patent (1493547) . The primary reference to Okayama teaches the basic claimed invention as discussed above, inter alla, including

applying a gel coat to a mold surface, applying a barrier coating thereon and applying a reinforcing laminate thereafter.. Although the primary reference teaches curing its product., the secondary reference more clearly teaches this aspect . The secondary reference teaches curing the product and removing it from the mold- page 4, lines 115-120; page 4, lines 110-125. It would have been obvious to one of ordinary skill in the art at the time the invention is made to combine the teachings of the secondary reference to GB '547 and further cure and remove the laminated product of Okayama from its mold motivated by the desire to complete the molding process. Concerning claims 38-40, it is submitted the type of material, including its properties , would have been obvious in the cited references particularly as such product structures are of no patentable consequences to the instant question for patentability which must be manipulatively distinct. .Ex parte Pfeiffer 1962 C.D. 408(1961). Likewise and concerning claims 41-45, the particular material, its dimensions and layer thickness, would have been obvious in the cited references particularly as such product structures are of no patentable consequences to the instant question for patentability which must be manipulatively distinct.

11. Claims 11,15,19, are rejected under 35 U.S.C. 103(a) as being unpatentable over GB Patent(1493547) alone.

The reference to the GB patent teaches the claimed laminate comprising an gel coat layer, a laminate layer and a barrier coat disposed therbetween- page 2, col 2, lines 75-125; page 1, col 1, lines 29-32; page 1, col 2, lines 73-88; page 2, col 2, lines 90-117;

page 3, lines 34-48; page 3, lines 71-83; page 5, lines 90-96. concerning claim 15 and 19, the reference teaches the claimed fiber dimensions in page 3, lines 75-80.

12. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over GB Patent(1493547) as applied to claims 11,15 and 19 above, and further in view of Maker(US 5087405).

The reference to Maker teaches that it is known to include pigmented material in laminated fiber reinforced product as taught by the GB '547 Patent-col 6, line 46-48; col 5, lines 54-56.. it would have been obvious to one of ordinary skill in the art at the time the invention is mad to combine the Maker reference and facilitate the GB reference with such pigment material motivated to impart desired aesthetic properties there to. Both references are combineable for they relate to laminated fiber reinforced products.

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Claims 1-10;20-27 are allowed.

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Applicant's arguments filed 10-5-05 have been fully considered but they are not persuasive. Applicants argue that the instant claimed invention and application, 10/601250, recite respective and different limitations but reserves the right to file a Terminal Disclaimer. Applicants argue the 102 rejection over Okayama reference arguing In re Pfeiffer is not applicable. The examiner disagrees. The claimed limitations are indeed directed to process steps, article limitations are thus not germane in the

instant question for patentability. To be given patentable weight, such article limitations must affect the invention in a manipulative sense . applicants argue the 103 rejection contending the references fails to teach gel coat, laminated layers and a barrier layer. The examiner disagrees and direct applicants to the '547 reference, page 2, lines 75-125; page 3, lines 75-80.

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THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Applicants who wish to send a facsimile (draft copies) for the examiner's immediate review can do so by using the Examiner's personal fax number at 571-273-1520. The

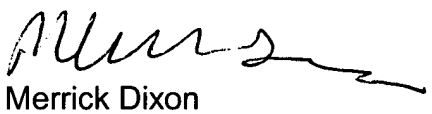
faxing of all papers must conform with the notice published in the Official Gazette, 1096 O.G. 30 (November 15, 1989). **NOTE: All facsimiles sent to the examiner's personal fax number should be in draft-forms and will be treated as informal. Same facsimiles will not be entered in the related applications unless otherwise agreed and noted by the examiner.**

The fax number for all other fascimile is 571-273-8300.

Information about **the status of an application** may be obtained from the Patent Information Retrieval system (**Private PAIR**).

Status inquires for **published applications** may be retrieved from either **Private PAIR** or **Public PAIR**. Questions about the PAIR system should be directed to the Electronic Business Center at **866-217-9197.**

Any questions concerning the instant communication should be directed to Examiner Dixon, at 571-272-1520, Mondays, Wednesdays and Thursdays, between 12 noon and 8 PM, eastern time .



Merrick Dixon

Primary Examiner

Group 1700